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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,202	03/31/2004	Ajay Pratap Singh Kushwah	LEGAP024	7502
21912 7590 09/27/2007 VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014			EXAMINER ORTIZ, BELIX M	
			ART UNIT 2164	PAPER NUMBER
			MAIL DATE 09/27/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/816,202	Applicant(s) KUSHWAH ET AL.	
	Examiner Belix M. Ortiz	Art Unit 2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Remarks

1. In response to communications files on 6-August-2007. Therefore, claims 1-8 and 10-21 are presently pending in the application.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-8 and 10-21 are rejected under 35 U.S.C. 102(e) (Eff. Filing date of application: 3/31/2004) as being anticipated by Prahlad et al. (U.S. Pub. 2005/0187992) (Eff. Filing date of provisional application: 11/13/2003)

As to claims 1 and 21, Prahlad et al. teaches a method for identifying a file system element for restoration (see abstract) comprising:

receiving a request to restore a file system element (see paragraphs 18 and 56);

determining an offset indicating where a record associated with the file system element is located within a collection of records, wherein the record includes metadata related to stored data to be used to restore the file system element (see figure 4 and paragraphs 14, 41, 50, and 56); and

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using the determined offset to retrieve the record from the collection of records (see fig. 4; and paragraphs 14, 36, and 60).

As to claim 2, Prahlad et al. teaches the method further comprising determining the type of file system element being restored (see paragraphs 14, 16-17, and 26).

As to claim 3, Prahlad et al. teaches wherein a most significant bit indicates the type of file system element being restored (see paragraphs 14-16).

As to claim 4, Prahlad et al. teaches wherein the most significant bit is stored in a table (see paragraph 15).

As to claim 5-8, 15-16, Prahlad et al. teaches wherein one type of file system element is a file, a file metadata file, a directory, a directory metadata file (see figure 4 and paragraph 14)

As to claim 10, Prahlad et al. teaches wherein the metadata includes administrative information (see paragraph 41).

As to claim 11, Prahlad et al. teaches wherein the metadata includes permissions (see paragraph 41).

As to claim 12, Prahlad et al. teaches wherein the metadata includes a value that uniquely identifies the file system element associated with the file system element (see paragraph 41).

As to claim 13, Prahlad et al. teaches wherein the record id a first recode and determining an offset includes retrieving a second record associated with the file system element being restored the includes the offset of the first record (see abstract and paragraphs 41 and 56).

As to claim 14, Prahlad et al. teaches wherein the offset is stored in a table (see paragraph 15 and figure 4).

As to claim 17, Prahlad et al. teaches the method further comprising determining a second offset of a second record associated with the record (see figure 4 and paragraphs 14 and 50).

As to claim 18, Prahlad et al. teaches wherein the association of the record with the file system element occurs via an inode (see figure 4, character 356).

As to claim 19, Prahlad et al. teaches wherein the association of the record with the file system element occurs via a value that uniquely identifies the file system element (see figure 4).

As to claim 20, Prahlad et al. teaches a system for identifying a file system element for restoration comprising:

a processor configured to:

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receiving a request to restore a file system element (see paragraphs 18 and 56);  
determining an offset indicating where a record associated with the file system element is located within a collection of records, wherein the record includes metadata related to stored data to be used to restore the file system element(see figure 4 and paragraphs 14, 41, 50, and 56); and  
use the determined offset to retrieve the record from the collection of records (see fig. 4 and paragraphs 14, 36, and 60); and  
a memory coupled to the processor, wherein the memory provides instructions (see paragraph 43).

***Response to Amendment***

4. The Declaration filed on August 6, 2007 under 37 CFR 1.131 has been considered but is ineffective to overcome the Prahlad et al. (U.S. pub. 2005/0187992) reference.

The Declaration under 37 CFR 1.131 is defective for the following reasons:

-- The no explanations are provided showing how (or even if) the source code relates to the claimed invention.

--The explanations which are provided are not sufficient to explain the functionalities accomplished by the code.

--Additionally, there is no evidence that the source code was tested and found to be operational prior to the effective date of the prior art.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Belix M. Ortiz whose telephone number is 571-272-4081. The examiner can normally be reached on moday-friday 9am-5pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

bmo

September 22, 2007

  
CHARLES RONES  
SUPERVISORY PATENT EXAMINER